

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**In re Application of: Andreyko                      EXAMINER: Ustaris, Joseph**

**Serial Number 10/502,302                      Group Art Unit: 2623**

**Filing Date: 7/20/2004**

**For: Method for Interactive Television Using Foveal Properties  
of the Eyes of Individual and Grouped Users and for  
Protecting Video Information Against the Unauthorized  
Access, Dissemination and Use Thereof**

Hon. Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

**RE-SUBMISSION OF RESPONSE PURSUANT TO RULE 1.8**

In a telephonic message to the Examiner on October 17, 2008, Applicant's attorney noted that on a regular check of the PTO website for currently docketed matters, that it was observed that the office action response, mailed by Applicant's attorney, on September 11, 2008, had not reached the examiner nor been entered into the PAIR system.

Applicant's attorney left the message with the Examiner that this problem had occurred in months past on another application and that Applicant would re-submit a second copy of the office action previously mailed on September 11, 2008 pursuant to Rule 1.8.

Rule 1.8 provides that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of the section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission.

1(a) The Examiner was informed that the office action was mailed on September 11, 2008 with a certificate of mailing.

2(a) An additional copy of the previously mailed office action is attached hereto.

3(a) The attorney attaches the following statement regarding the previous mailing.

# STATEMENT REGARDING MAILING

I, Donn Harms, am the attorney of record on U.S. Patent Application Serial Number 10/502,302.

I personally drafted a response to the first office action of over the two days prior to September 11<sup>th</sup> 2008, (a true copy of which is attached). The response was placed in the mail on Thursday, September 11th, 2008 to the USPTO Alexandria, Virginia office. I remember that this action was tendered to the mail carrier directly on the mail carrier's visit to the office to deliver mail on that date as I was on my way out to place it in the mail box and ran into the mail carrier and it saved me the trip.

As is the normal course of office procedure, I personally placed a "Certificate of Mailing" on the top left corner of every response, attesting to the fact the response was placed in the mail on that date. I declare further that all statements made herein are true and that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this document and the matter to which it relates.

Respectfully submitted,



Donn K. Harms  
Attorney for Applicant

# REMARKS

As noted in the telephonic message to the Examiner, the PTO has apparently not received the response, or if received, it has not been entered into the system by the Contractor handling such incoming mail.

Applicant therefor requests that the attached amendment be entered pursuant to rule 1.8 as indicated in the telephonic message to the Examiner.

Should this request per rule 1.8 not be acceptable, or for any other reason, to examine or to maintain the active status of this application, please charge Deposit Account 07-1338 for any such fees.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Donn K. Harms', with a stylized flourish extending to the right.

Donn K. Harms  
Attorney for Applicant